

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Richmond Division)

In re:)	
)	Chapter 11
CIRCUIT CITY STORES, INC., <i>et al.</i> ,)	
)	Case No. 08-35653-KRH
Debtors.)	Jointly Administered
_____)	

**MOTION FOR EXPEDITED HEARING AND TO SHORTEN OBJECTION
DEADLINE FOR MOTION OF D.L. PETERSON TRUST AS ASSIGNEE OF
PHH VEHICLE MANAGEMENT SERVICES, LLC TO COMPEL REJECTION OF
LEASE AGREEMENTS AND FOR RELIEF FROM THE AUTOMATIC STAY**

D.L. Peterson Trust as assignee of PHH Vehicle Management Services, LLC f/k/a PHH Vehicle Management Services Corporation (“**PHH**”), by its undersigned counsel, hereby moves, pursuant to Rule 9006(c) of the Federal Rules of Bankruptcy Procedure and Local Rule 9013-1(N), for an expedited hearing and to shorten the objection deadline relating to PHH’s *Motion to Compel Rejection of Lease Agreements and for Relief from the Automatic Stay* (the “**Motion to Compel**”). As described herein, the Debtors have defaulted on their obligations to PHH under lease agreements and, upon information and belief, may be selling PHH’s property in connection with their liquidation. Given the circumstances, PHH submits that an expedited hearing on the Motion to Compel is warranted and that the deadline for filing objections to the Motion to Compel should be shortened to seven (7) days. In further support of this motion, PHH states as follows:

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Counsel for D.L. Peterson Trust as Assignee
of PHH Vehicle Management Services, LLC

1. This Court has jurisdiction pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

2. On November 10, 2008 (the “**Petition Date**”), Circuit City Stores, Inc. (“**Circuit City**”) and its related Chapter 11 debtors (collectively, the “**Debtors**”) filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “**Bankruptcy Code**”).

3. PHH is the lessor under the following lease agreements with Circuit City (collectively, as amended and supplemented from time to time, the “**Lease Agreements**”): (a) Motor Vehicle Fleet Open-End Operating Lease Agreement No. 5491 dated January 23, 1998, pursuant to which Circuit City leased the vehicles identified on certain schedules; and (b) Equipment Lease dated April 19, 1999, pursuant to which Circuit City leased the forklifts, trucks and other equipment identified on certain schedules. The property referenced in this paragraph is hereafter referred to collectively as the “**Leased Property**.”

4. Contemporaneously with the filing of this motion, PHH is filing the Motion to Compel seeking to compel rejection of the Lease Agreements and for relief from the automatic stay as to its Leased Property.

5. On January 16, 2009, the Debtors stated their intention to cease operations and completely liquidate all of their assets. Pursuant to the Order Approving Agency Agreement, Store Closing Sales and Related Relief entered January 16, 2009, this Court authorized the Debtors to engage certain agents to conduct the liquidation of their assets.

6. The Debtors are obligated to make monthly payments to PHH under the Lease Agreements. The Debtors, however, have breached their post-petition payment obligations under the Lease Agreements by failing to make the monthly payments due to PHH on January

16, 2009. PHH is the sole owner of the Leased Property and, absent the consent of PHH, the Debtors have no right to sell the Leased Property. Upon information and belief, the Debtors (acting through their liquidating agents), are selling, or are attempting to sell, certain of the Leased Property.

7. It is inevitable that the Debtors will reject the Lease Agreements. The Motion to Compel seeks to compel the Debtors to immediately reject the Lease Agreements. PHH requests that the Motion to Compel be heard at the omnibus hearing date set for February 13, 2009 at 10:00 a.m. and that the deadline for filing an objection to the Motion to Compel be set for February 11, 2009 at 5:00 p.m. Given the circumstances, PHH submits that this is a reasonable timetable for the hearing and for submission of objections.

8. The Court has authority to grant the relief requested in this motion pursuant to, *inter alia*, Rule 9006(c) of the Federal Rules of Bankruptcy Procedure and Section 105(a) of the Bankruptcy Code.

9. Pursuant to Local Rule 9013-1(N), a required certification is made below as a part of this Motion to Expedite.

Request for Waiver of Local Rule 9013-1(G)

10. PHH respectfully requests that this Court treat this motion as a written memorandum of points and authorities or waive any requirement that this motion be accompanied by a written memorandum of points and authorities described in Rule 9013-1(G) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Eastern District of Virginia.

WHEREFORE, PHH requests that the Court:

- (a) Schedule a hearing on the Motion to Compel for February 13, 2009 at 10:00 a.m.;
- (b) Shorten the deadline for filing objections to the Motion to Compel to February 11, 2009 at 5:00 p.m.; and
- (c) Grant such other and further relief as is just and appropriate under the circumstances.

Certification Pursuant to Local Bankruptcy Rule 9013-1(N)

- 1. I am a member of the Bar of this Court.
- 2. I have carefully examined this matter and have concluded that there is a true need for an emergency hearing.
- 3. I have not created the emergency through the lack of due diligence.
- 4. A *bona fide* effort to resolve the matter could not be made without a hearing.

NOTICE OF MOTION AND HEARING

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

PLEASE TAKE NOTICE that D.L. Peterson Trust as assignee of PHH Vehicle Management Services, LLC f/k/a PHH Vehicle Management Services Corporation (“**PHH**”) has filed a Motion for Expedited Hearing and to Shorten Objection Deadline (the “**Motion to Shorten**”) with the Court seeking an expedited hearing and to shorten the objection deadline relating to PHH’s *Motion to Compel Rejection of Lease Agreements and For Relief from the Automatic Stay* (the “**Motion to Compel**”)

As described in the Motion to Shorten, PHH has requested that a hearing on the Motion to Compel be scheduled for February 13, 2009 at 10:00 a.m. and that the deadline for filing objections to the Motion to Compel to February 11, 2009 at 5:00 p.m. If you do not wish the Court to grant the relief sought in the Motion to Shorten, or if you want the Court to consider your views on the Motion to Shorten, then within SEVEN (7) DAYS from the date of service of the Motion to Shorten you or your attorney must file a written response explaining your position with the Court at the following address: Clerk of Court, United States Bankruptcy Court, 701 East Broad Street, Richmond, VA 23219. You must also mail a copy of your response to the following:

Anne Braucher, Esquire
DLA Piper LLP (US)
500 Eighth Street, N.W.
Washington, D.C. 20004

Office of the U.S. Trustee
701 East Broad Street
Richmond, VA 23219

Unless a written response is filed and served within the seven (7) day period, the Court may deem opposition waived, treat the Motion to Shorten as conceded and issue an order granting the relief requested in the Motion. If you mail your response to the Court for filing, you must mail it early enough so that the Court will receive it on or before the expiration of the seven (7) day period.

If the Motion to Shorten is granted, the Court will conduct a hearing on the Motion to Compel on **February 13, 2009 at 10:00 a.m.** in Courtroom 5000, United States Bankruptcy Court, 701 East Broad Street, Richmond, VA 23219.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Respectfully submitted,

DATE: February 4, 2009

/s/ Anne Braucher

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*Counsel for D.L. Peterson Trust as Assignee
of PHH Vehicle Management Services, LLC*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 4th day of February, 2009, I served copies of the foregoing *Motion for Expedited Hearing and to Shorten Objection Deadline* by electronic means and/or first -class United States mail, postage prepaid, on the following:

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701 East Broad Street, Suite 4304
Richmond, VA 23219

/s/ Anne Braucher

Anne Braucher

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Richmond Division)

In re:)	
)	Chapter 11
CIRCUIT CITY STORES, INC., <i>et al.</i> ,)	
)	Case No. 08-35653-KRH
Debtors.)	Jointly Administered
_____)	

**ORDER GRANTING MOTION FOR EXPEDITED
HEARING AND TO SHORTEN OBJECTION DEADLINE**

Upon consideration of the *Motion for Expedited Hearing and to Shorten Notice Period* (the “**Motion**”) filed by D.L. Peterson Trust as assignee of PHH Vehicle Management Services, LLC f/k/a PHH Vehicle Management Services Corporation (“**PHH**”); and the Court having reviewed and considered the Motion and any response thereto; the Court finding that (i) it has jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. §§ 157 and 1334, (ii) this matter is a core proceeding pursuant to 28 U.S.C. 157(b), (iii) it appearing that appropriate notice of the Motion has been provided and that no other or further notice need be provided, and (iv) after due deliberation, and sufficient cause appearing therefor; it is, by the United States Bankruptcy Court for the Eastern District of Virginia, ORDERED as follows:

1. The Motion is hereby **GRANTED**.
2. Unless otherwise defined herein, each capitalized term shall have the meaning ascribed to it in the Motion.

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of PHH Vehicle Management Services, LLC

3. The request for an expedited hearing is granted and the hearing on the Motion to Compel is set for February 13, 2009 at 10:00 a.m.

4. The deadline for filing an objection to the Motion to Compel is February 11, 2009 at 5:00 p.m.

5. This Court shall retain jurisdiction over all matters arising from or relating to the implementation of this Order.

DATE:

HON. KEVIN R. HUENNEKENS
UNITED STATES BANKRUPTCY JUDGE

ENTERED ON DOCKET:

I ASK FOR THIS:

/s/ Anne Braucher

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Phone 202-799-4000
Fax 202-799-5000

*Counsel for D.L. Peterson Trust as Assignee
of PHH Vehicle Management Services, LLC*

LOCAL RULE CERTIFICATION

I HEREBY CERTIFY that, on this the 4th day of February, 2009, the foregoing has been either endorsed by or served upon all necessary parties, by electronic means and/or first-class United States mail, postage prepaid, on the following:

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/s/ Anne Braucher

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